

ORDINANCE NO. _____, SERIES 2007

AN ORDINANCE APPROVING THE RATES, RENTALS AND CHARGES FOR WASTEWATER AND DRAINAGE SERVICES AND EPA CONSENT DECREE SURCHARGE SET FORTH IN THE RESOLUTION BY THE BOARD OF THE LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (HEREINAFTER “THE DISTRICT”) WHICH AMENDS THE DISTRICT’S SCHEDULE OF RATES, RENTALS AND CHARGES FOR WASTEWATER AND DRAINAGE SERVICES PURSUANT TO KENTUCKY REVISED STATUTES CHAPTER 76 AND APPROVING THE PLANS FOR THE PROJECTS TO BE PERFORMED.

SPONSORED BY: Councilmembers Tina Ward-Pugh and Stuart Benson

WHEREAS, pursuant to Chapter 76 of the Kentucky Revised Statutes, as amended, the Louisville and Jefferson County Metropolitan Sewer District (hereinafter “the District” or “MSD”) has been created and organized as a public body corporate, and is a valid political subdivision in good standing under the law of the Commonwealth of Kentucky, having jurisdiction, control possession, and supervision of the existing sewer and drainage system of the Louisville/Jefferson County Metro Government; to maintain, operate, reconstruct and improve the sewer and drainage system; to made additions, betterments and improvements to the sewer and drainage system, with the power and authority to set its rates, rentals and charges for wastewater and drainage services; and

WHEREAS, on the 10th day of May, 1947, by Resolution of its Board, the District adopted and established a schedule of rates, rentals and charges for its services and thereafter has amended said schedule from time to time; and

WHEREAS, the District’s current schedule of rates, rentals, and charges (wastewater and drainage service charges) will not continue to generate sufficient revenue for the proper operation and maintenance of the existing sewerage and drainage system and for the retirement of the District’s outstanding debt and, therefore, will not be in compliance with the Kentucky Revised Statutes, the District’s Bond Authorizing Resolutions and relevant ordinances; and

WHEREAS, the District must maintain a schedule of wastewater and drainage service charges which complies with the Federal Water Pollution Control Act Amendments of 1972, the Clean Water Act of 1977, both codified at 33 U.S.C. §1251, *et. seq.*, and United States Environmental Protection Agency (EPA) rules and regulations which require the District to have a schedule of sewer service rates that will proportionally charge operation and maintenance costs to all users of the District's wastewater and drainage collection and treatment system and that will generate sufficient revenue to offset the cost of all operation and maintenance; and

WHEREAS, the District has entered into a Consent Decree with the United States Environmental Protection Agency and the Commonwealth of Kentucky in the United States District Court for the Western District of Kentucky, civil action number 3:05CV-236-S, in which the District has committed to rehabilitating portions of its sewer systems and construct other capital improvements to reduce and/or eliminate combined sewer overflows and sanitary sewer overflows to comply with state and federal environmental laws with all work to be completed by the year 2024; and

WHEREAS, in order to comply with the terms of the Consent Decree, perform the work required under the Consent Decree, and provide a more reliable, efficient and environmentally sound wastewater and drainage system, it is in the best interest of the District and its customers and ratepayers to add an EPA Consent Decree Surcharge which will be an additional wastewater volume charge to customer billings. The District hereby identifies the District's Sewer and Drainage Projects (hereinafter "the Projects") to be financed through the rates, rentals and charges and in the EPA Consent Decree Surcharge to include the following: [i] wastewater treatment plant and pump station upgrades or elimination; [ii] wet weather treatment capacity expansion; [iii] combined sewer overflow mitigation; [iv] sanitary sewer overflow elimination;

[v] wet weather storage; [vi] sewer and facilities rehabilitation; and [vii] Consent Decree compliance plan development; [viii] green infrastructure initiative. Metro Council and the director of works hereby approve the plans for these construction and extension projects pursuant to KRS 76.080(3); and

WHEREAS, pursuant to KRS Chapter 76, the Board of Aldermen of the City of Louisville, by Ordinance No. 152, Series 1979, as amended by Ordinance No. 388, Series 1986, and the Fiscal Court of Jefferson County, by Ordinance No. 25, Series 1979, as amended by Ordinance No. 32, Series 1986, and Louisville Metro Council Ordinance No. 62, Series 2003, which ratified the aforementioned ordinances, approved a schedule of wastewater and drainage service charges for the District which includes the following Debt Service Adjustments provision:

“Whenever MSD’s net revenues are less than 1.10 times the debt service on MSD’s outstanding revenue bonds for any consecutive six-month period, by order of the Board of MSD, the schedule of wastewater service charges and drainage service charges shall be amended in order to maintain a 1.10 debt service coverage required by MSD’s 1971 Bond Authorizing Resolution which was approved by City of Louisville Ordinance Number 86, Series 1971; provided the aggregate of such adjustments for any 12-month period shall not generate additional revenue from wastewater service charges and drainage service charges in excess of 7%.

“The term ‘net revenues’ is defined as gross revenue from wastewater service charges and drainage service charges, less operating expenses and debt payments other than debt service payments on MSD’s outstanding revenue bonds.”

WHEREAS, the Board of the District has been advised by the District’s Executive Director that net revenues, as hereinabove defined, for the six-month period ended April 30, 2007, will be less than 1.10 times the debt service on the District’s outstanding revenue bonds for the same six-month period; and

WHEREAS, the Preliminary Resolution by the Board of the District amending the schedule of wastewater and drainage rates, rentals, and charges was approved by the Board of the District on May 29, 2007, and notice of said amendments was published on June 13, 2007, pursuant to Chapter 424 of the Kentucky Revised Statutes, providing notice that objections to the amended schedule could be filed in writing by any person aggrieved thereby within a period of thirty (30) days from the date of said publication. The District examined the objections and heard comments in a hearing held by the Board of the District on July 16, 2007, and the Board of the District adopted the Final Resolution on July 23, 2007; and

WHEREAS, approval of this Ordinance ratifies the requirement that the Louisville/Jefferson County Metro Government approves MSD's Schedule of Rates, Rentals and Charges as provided for in KRS Chapter 76, and as approved for in Ordinance No. 25, Series 1979 as amended by Ordinance No. 32, Series 1986; and Ordinance No. 152, Series 1979 as amended by Ordinance No. 388, Series 1986.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (COUNCIL) AS FOLLOWS:

SECTION 1. That the amended schedule of wastewater and drainage rates, rentals and charges as set forth in the Final Rate Resolution adopted by the Board of the Louisville and Jefferson County Metropolitan Sewer District on July 23, 2007, and the plans for the Projects are hereby approved and authorized.

SECTION 2. That the recitals contained in this Ordinance are hereby adopted as a finding of fact and incorporated herein as if adopted and the Projects are approved.

SECTION 3. That all previous ordinances relating to the District's Debt Service Adjustment provisions continue to be in full force and effect.

SECTION 4. That this Ordinance shall take effect upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

Rick Blackwell
President of the Council

Jerry E. Abramson
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Irv Maze
Jefferson County Attorney

BY: _____